

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 17A.7, 476.1, 476.6, 476.8, and 476.20, the Utilities Board (Board) gives notice that on November 18, 2008, the Board issued an order in Docket No. RMU-08-7, In re: Electric Load Service Limiters, "Order Commencing Rule Making." The Board is noticing for public comment proposed amendments to 199 IAC 20.1(476B) and 20.4(476B). The amendments impact the use of electric load service limiters for residential customers.

On January 8, 2008, the Board initiated an inquiry into the use of electric load service limiters after rejecting a tariff and denying a waiver request filed by Consumers Energy Cooperative in Docket Nos. WRU-07-28-945 and TF-07-156. The tariff was rejected and the waiver denied by Board order issued on December 26, 2007, in part because objectors raised issues that should be addressed in a broader forum, such as an inquiry. Among the issues the Board wanted to examine were the scope of technology available, the range of applications, and legal and practical issues surrounding the use of electric load service limiters. The last time the Board looked at this issue (1999-2000), it appeared no utilities were using limiters. Today, only a few municipalities or cooperatives use them. The state's two investor-owned electric utilities, Interstate Power and Light Company and MidAmerican Energy Company, currently do not use service limiters. The scope of the inquiry was limited to use of service limiters for residential customers; the Board's current rules only apply to residential customers.

The use of service limiters may increase, however, because of advances in technology. When the Board adopted its current rules, a collar had to be placed on the meter to limit service, leading to the requirement that once the past-due bill was paid, the collar had to be removed within 24 hours. Today, many new meters have service limiting technology built in along with a range of other meter functions, and there is no collar to install or remove; the service limiting function can be activated or disabled by the utility from a remote location. The old collars were reset by manually pushing a button; the new ones often can be reset manually, remotely, or automatically after a specified time period.

The Board's current rules on service limiters require updating because of the new technology, and there are some ambiguities in the current rules regarding when a service limiter can be used. These issues were examined in the inquiry docket.

Several groups filed written comments in the inquiry, and a workshop was held on May 14, 2008. Participants included the Consumer Advocate Division of the Department of Justice, the Iowa Department of Human Rights, Iowa Legal Aid, Interstate Power and Light Company, the Iowa Association of Municipal Utilities, MidAmerican Energy Company, the Iowa Association of Electric Cooperatives, and Consumers Energy Cooperative. Perhaps the biggest difference between those in favor of limiters and those opposed to their use is whether a service limiter, when it is tripped because the usage limit is exceeded, results in a disconnection. In other words, if one concludes that when the service limit is exceeded and the power flow stops there is a disconnection, then all the winter moratorium rules apply, the use of service limiters is severely curtailed, and enforcement is difficult.

Another view is that service limiters can be used in limited circumstances as an alternative to disconnection with no violation of the winter moratorium. The proposed rules provide that when a customer has defaulted on a first payment agreement and could be disconnected or is eligible for a second payment agreement, the utility may offer the customer a service limiter in conjunction with a subsequent payment agreement as an alternative to disconnection. The loss of service that occurs when the service limit is exceeded is arguably not a disconnection because the proposed rules provide that

service must be able to be restored manually by the customer and also may be restored remotely or automatically within a short period of time.

The winter moratorium rules and temperature rules would still apply. For example, a low-income home energy assistance program (LIHEAP) eligible customer who has agreed to a service limiter could not be disconnected during the winter moratorium, although the service limiter could be utilized if the requirements in the proposed rules were satisfied. However, the proposed rules provide that the service limiter could not be placed on the customer's meter without the customer's consent. The LIHEAP-eligible customer could decline the use of a limiter, continue receiving regular service during the moratorium, and be disconnected after April 1 if past-due bills remained.

The inquiry participants did not reach a consensus on any changes to the existing electric load service limiter rules. The Board's proposed rules represent a middle ground between those who would ban the use of service limiters and those who would advocate more widespread use. The proposed rules are designed to allow for the use of service limiters as an alternative to disconnection, not as a collection tool. The proposed rules prohibit use of service limiters until there has been a default on a first payment agreement and the customer is therefore subject to disconnection. If the customer agrees to use of a limiter and a subsequent payment agreement, then under the proposed rules the customer can avoid disconnection.

The minimum usage set by the proposed rules, 3,600 watts, is designed to allow most residential customers to heat their homes and run a couple of appliances at the same time, but it will not allow full normal usage. A utility can set a higher limit as long as it uses nondiscriminatory standards. For electric heating customers, the limit must be high enough to heat the home. The proposed rules also clarify current disconnection practice, which is that disconnection can be after a 24-hour notice if the disconnection is for failure to comply with the terms of a payment agreement.

The proposed rules require that the service limiting function must be capable of being manually reset by the customer, although the function may also be capable of resetting itself automatically within 15 minutes or less or remotely, in which case a 24-hour telephone number must be provided. The proposed rules provide that there are to be no disconnect, reconnect, or other charges associated with the use of limiters; and the utility is required to provide the customer with information on how the limiter works and what appliances or combination of appliances can typically be operated to stay within the usage limits. To reflect new technology, the proposed rules do not require the limiter to be removed if the past-due bill is paid, but the service limiting function of the meter must be disabled no later than the next working day after the account balance is paid.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before January 6, 2009, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on February 5, 2009, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to these amendments.

These amendments are intended to implement Iowa Code sections 476.1, 476.6, 476.8, and 476.20.

The following amendments are proposed.

ITEM 1. Amend subrule **20.1(3)**, definition of "Service limiter," as follows:

"Service limiter" or "service limitation device" means a ~~circuit breaker~~ device that limits a residential customer's power consumption to ~~15 amps at 120 volts~~ 3,600 watts (or some higher level of

usage approved by the board) and that ~~either~~ resets itself automatically, ~~or~~ can be reset manually by the customer, or can be reset remotely by the utility at all times.

ITEM 2. Amend subparagraph **20.4(15)“d”(4)** as follows:

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and ~~remedies responsibilities~~, as set forth in subparagraph 20.4(15)“d”(3):

Service limitation: We have adopted a limitation of service policy of service limitation before disconnection for customers who otherwise could be disconnected. ~~You may be qualified for service limitation rather than disconnection. To see if you qualify, contact our business office. Contact our business office for more information or to learn if you qualify.~~

ITEM 3. Amend paragraph **20.4(15)“f”** as follows:

f. A utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement, ~~except as provided in numbered paragraph 20.4(11)“e”(1)“4,” provided the utility complies with the provisions of paragraph 20.4(15)“d.”~~

ITEM 4. Rescind paragraph **20.4(15)“h.”**

ITEM 5. Rescind subrule 20.4(23) and adopt the following **new** subrule in lieu thereof:

20.4(23) Limitation of service. The utility shall have the option of adopting a policy for service limitation at a customer’s residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility’s tariff and shall contain the following conditions:

- a. A service limitation device shall not be activated without the customer’s agreement.
- b. A service limitation device shall not be activated unless the customer has defaulted on a first payment agreement and the customer has agreed to a subsequent payment agreement.
- c. The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, “electric heating” shall mean heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.
- d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer. In addition, the service limiter function may also reset itself automatically within 15 minutes or less after the interruption or be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer.
- e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.
- f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.
- g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.
- h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(15)“f.”